IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WP(C).No. 7512 of 2005(T)

PETITIONER:

M.PONNAMMA, W/O.E.V.JOSEPH,
AGED 40, INDIKUZHIYIL VEEDU, RESIDING AT
KOLAGAPPARA, KRISHNANGIRI AMSOM,
KRISHNAGIRI DESOM, SULTHAN BATHERY TALUK.

BY ADV. SRI.V.RAJENDRAN (PERUMBAVOOR)

RESPONDENTS:

YOHANNAN, S/O.MATHAI, AGED 55 YEARS,
PUTHENPURAYIL VEEDU, RESIDING AT KUPPADY,
KUPPADY AMSOM DESOM, SULTHAN BATHERY TALUK.

BY ADV. SRI.M.P.ASHOK KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 7512/2005 T

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE PLAINT IN OS NO. 265/03 DT. 18/11/03.

EXT.P2. COPY OF THE ORDER IN IA NO. 1191/03 IN OS NO. 265/03 DT. 18/11/03.

EXT.P3. COPY OF THE PLAINT IN OS NO. 296/03 DT. 11/12/03.

EXT.P4. COPY OF THE ORDER OF THE LOWER COURT IN IA NO. 1274/03 IN OS NO. 296/03 DT. 11/12/03.

EXT.P5. COPY OF THE ORDER IN IA NO. 1209/04 IN OS NO. 296/03 DT. 7/2/2005.

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PIUS C. KURIAKOSE,J.

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W.P.(C) No.7512 of 2005

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Dated: 10th July, 2007

JUDGMENT

Ext.P5 order by which the learned Munsiff dismissed an application for stay under Section 10 of the C.P.C. filed by the petitioner who is the plaintiff in the earlier instituted suit O.S.No.265/03 is under challenge in this Writ Petition under Article 227 of the Constitution. Notwithstanding the persuasive and fervent submissions of Mr.V.Rajendran Perumbavoor, learned counsel for the petitioner, I am unable to agree with the learned counsel who argues that Ext.P5 is vitiated to the extent of justifying interference under the supervisory jurisdiction. At the same time I feel that considerations of justice and the consideration that possibility of conflicting findings in respect of litigations pertaining to substantially the same property should be avoided as far as possible and that the valuable time of the court should be saved, I am of the view that there is justification for ordering a joint trial of both the suits. Accordingly, even as I approve Ext.P5 order, I direct the learned Munsiff to try and dispose of O.S.No.265/03 and O.S.No.296/03 jointly treating O.S.No.265/03, the earlier instituted suit as the leading suit. Since both the suits are of the year 2003, the learned

Munsiff will make every endeavour to dispose of the suits within three months of them becoming ripe for trial. Mr.Rajendran has a further grievance that the learned Munsiff has not been inclined to direct maintenance of status quo as reported by the Advocate Commissioner who was appointed in O.S.No.265/03 which is the suit earlier in point of time. If any application is filed by either of the parties regarding the above aspect, the learned Munsiff shall consider the application and take a decision after hearing both sides and issue appropriate interim directions.

The Writ Petition is disposed of as above. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**